

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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 )  
 DORIS R. KING, )  
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 )  
 Plaintiff, )  
 )  
 ) Civil Action No. 03-12591-NMG  
 v. )  
 )  
 )  
 WEST ROXBURY VAMC & MARY )  
 HANLON, )  
 )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

## **DEFENDANTS' ANSWER TO THE COMPLAINT**

Defendants West Roxbury VA Medical Center and Mary Hanlon, by their attorney,  
answer the correspondingly numbered paragraphs of plaintiff's complaint upon information and  
belief as follows:

1. Paragraph one sets forth the plaintiff's address and citizenship. To the extent a response is necessary, defendants admit this paragraph.
2. The paragraph contains no information to which the defendants can form a response.
3. The defendants admits this paragraph to the extent that jurisdiction for this case is set forth by, and limited by, the Federal Tort Claims Act.
4. The defendants admit that Nurse Mary Hanlon connected the wrong bag, but deny remainder.
5. The defendants deny this paragraph.
6. The defendants deny this paragraph.

7. The defendants admit that plaintiff complained to defendant Hanlon's supervisor, but deny remainder.
8. The defendants deny this paragraph.
9. The defendants deny this paragraph.
10. The defendants deny this paragraph.
11. The defendants deny this paragraph.
12. The defendants have insufficient information to admit or deny this paragraph.
13. The defendants deny this paragraph.
14. The defendants admit that Nurse Marie Pizzaferi interviewed plaintiff, but deny the remainder.
15. The defendants have insufficient information to admit or deny this paragraph.
16. The defendants deny this paragraph.
17. The defendants deny this paragraph.

In addition, plaintiff's complaint contains an unnumbered paragraph which contains factual assertions. To the extent a response to this paragraph is required, the defendants admit that Edward J. Lukey sent a letter to the plaintiff's attorney that contains the quoted statement, but deny the remainder.

All allegations not specifically admitted herein are specifically denied.

### **Defenses**

1. The plaintiff's complaint fails to state a claim upon which relief can be granted.
2. The defendants, and/or any of its agents or employees, deny that they were negligent in any manner and/or breached any standard of care due the plaintiff and/or engaged in

any conduct which was the proximate cause of the injuries, damages, and losses allegedly incurred by the plaintiff.

3. The United States is not liable for interest prior to judgment or for punitive or special damages pursuant to 28 U.S.C. § 2675.

4. Recovery, if any, for the plaintiff is limited to the amount of his respective administrative claim, pursuant to 28 U.S.C. § 2675(b).

5. Trial by jury is not available.

6. Pursuant to 28 U.S.C. § 2679, an action against the United States is the plaintiff's exclusive remedy under the Federal Tort Claims Act. Therefore, Mary Hanlon and the West Roxbury VA Medical Center are not proper defendants in this action.

WHEREFORE, having fully answered plaintiff's Complaint, defendants respectfully move this Court to dismiss plaintiff's Complaint, for its costs incurred herein, and for such further relief as is just and proper.

Respectfully submitted,  
MICHAEL J. SULLIVAN  
United States Attorney

By: /s/ Jeffrey M. Cohen  
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Dated: January 24, 2005

CERTIFICATE OF SERVICE

I hereby certify that on this 24<sup>th</sup> day of January 2005, the foregoing document was served upon the following:

Doris R. King  
1395 Commonwealth Avenue  
Apartment 32  
Allston, MA 02134  
(617) 787-7468

/s/ Jeffrey M. Cohen  
Jeffrey M. Cohen